

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

FILED
U.S. DISTRICT COURT
DISTRICT OF MASS.
2005 JUN 29 P 3:43

DONALD C. HUTCHINS

Plaintiff

v.

CARDIAC SCIENCE, INC.

and

COMPLIANT CORPORATION

Defendants

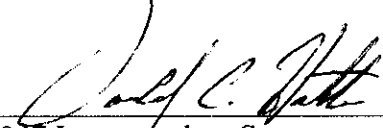
Civil Action: **04-30126-MAP**

PLAINTIFF'S MOTION FOR RELIEF FROM JUDGEMENT
PURSUANT TO RULE 60(b)(1)(2)

Plaintiff, Donald C. Hutchins ("Hutchins") hereby respectfully moves this Court pursuant to rule 60(b)(1)(2) of the Federal Rules of Civil Procedure for Relief from Judgment entered for the Defendant pursuant to the Memorandum and Order of the Court entered June 23, 2005 granting the Defendant's Motion for Summary Judgement

The Plaintiff, DONALD C. HUTCHINS, Pro Se

Dated: June 29, 2005



1047 Longmeadow Street
Longmeadow, Massachusetts 01106
(413) 734-2625
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UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

DONALD C. HUTCHINS

Plaintiff

vi.

CARDIAC SCIENCE, INC.

and

COMPLIANT CORPORATION

Defendants

Civil Action: 04-30126-MAP

**PLAINTIFF'S MOTION FOR RELIEF FROM JUDGEMENT AND
MEMORANDUM PURSUANT TO RULE 60(b)(1)(2) OF CIVIL PROCEDURE**

I. RELIEF SHOULD BE GRANTED PURSUANT TO RULE 60 (b)(1)

Plaintiff's Motion, Memorandum and Controverting Defendant's Motion for Summary Judgement was filed and served June 24, 2005. This Memorandum included the Affidavit of Donald C. Hutchins as specified by Local Rule 56.

Plaintiff, Hutchins was surprised by the Defendant's Motion for Summary Judgement and believed that this Court allowed a longer period of time to answer a summary judgement motion in patent litigation as indicated by Exhibit A attached.

II. RELIEF SHOULD BE GRANTED PURSUANT TO RULE 60 (b)(2)

Defendant's Motion for Summary Judgment included documents as exhibits that were not produced by Defendant during discovery. It also included an affidavit from a witness who's name and required address were never produced during discovery. The Court can appreciate that it took Plaintiff a great amount of time to research documents

that were not made available by Defendant during discovery. This research proved that the documents that the Defendant attached its Motion for Summary Judgment are bogus and edited by Defendant to deceive the Court.

III. CONCLUSION

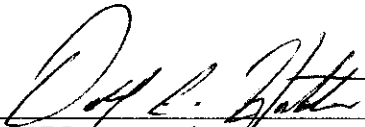
Plaintiff's Motion for Relief from Judgment should be granted because he violated the Local Rules due to surprise and inadvertence preparing for the dismissal hearing scheduled for June 30, 2005.

For reasons set forth above and as testified to by Donald C. Hutchins in his Affidavit, Plaintiff respectfully submits that the Defendant, Cardiac Science Inc. is not entitled to Summary Judgment on any claims at issue, as a matter of law because there are genuine issues to be tried.

Respectfully submitted

The Plaintiff
Donald C. Hutchins, Pro Se

Dated June 29, 2005

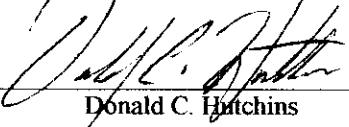


1047 Longmeadow Street
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(413) 567-0606

CERTIFICATE OF SERVICE

I, Donald C. Hutchins, 1047 Longmeadow, Massachusetts 01106, hereby certify that I served a copy of the foregoing on the appropriate parties by sending a copy by United States mail to: Randall T. Skaar, Esq. Patterson, Thunte, Skaar & Christensen, P.A., 4800 IDS Center, 80 South 8th St. Minneapolis, Minnesota; 55402, Paul H. Rothschild, Esq. Bacon & Wilson, P.C., 33 State St., Springfield, MA 01103; John J. Egan Esq., Egan, Flanagan and Cohen, P.C., 67 Market St., Springfield, MA 01102-9035

Dated: 6/29/05



Donald C. Hutchins

EXHIBIT A

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

DONALD C. HUTCHINS,)
 Plaintiff)
)/
 v.) CIVIL ACTION NO. 04-30121-MAP
)
ZOLL MEDICAL CORPORATION,)
 Defendant)

PRETRIAL SCHEDULING ORDER

December 16, 2004

DOCKETED

PONSOR, D.J.

Counsel for the defendant and the plaintiff, pro se, appeared before this court on December 15, 2004 for a scheduling conference. Based on the representations made at the conference, the court orders as follows:

1. The plaintiff will provide his claim construction memorandum to the defendant and the court no later than January 15, 2005.
2. Defendant will provide its claim construction memorandum to the plaintiff and the court no later than March 1, 2005.
3. All non-expert discovery will be completed by August 15, 2005.
4. The defendant's motion for summary judgment will be filed no later than September 15, 2005. It may be filed earlier, but in this event the plaintiff will have no less than thirty days to reply.
5. Assuming defendant's motion for summary judgment is filed on September 15, 2005, plaintiff's opposition will be filed by October 15, 2005. The defendant may reply no later than October 25, 2005. Defendant should make every effort to consolidate all theories that entitle it to summary judgment in one

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motion.

6. Once the court has received the memoranda supporting and opposing the motion for summary judgment, the motion will be set for hearing.

It is So Ordered.

/s/ Michael A. Ponsor
MICHAEL A. PONSOR
United States District Judge